



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

December 29, 1993

Ms. Gretchen Kuehn Bohnert  
Assistant City Attorney  
City of Houston  
P.O. Box 1562  
Houston, Texas 77251-1562

OR93-119

Dear Ms. Bohnert:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code (former V.T.C.S. article 6252-17a).<sup>1</sup> Your request was assigned ID# 18521.

The City of Houston ("the city") received an open records request for information pertaining to the termination of a former city employee. Citing Open Records Decision No. 119 (1976) as authority, you contend this information comes under the protection of former section 3(a)(2) of the Open Records Act (now found at section 552.102 of the Government Code).

In Open Records Decision No. 119, this office held that the personnel records of a discharged employee of the Bexar County Mental Health - Mental Retardation Services came under the protection of section 552.102(a), which protects, *inter alia*, "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." You should note, however, that the rationale that served as the basis for Open Records Decision No. 119 has long since been overturned. *See, e.g.*, Open Records Decision No. 278 (1981).

The test for section 552.102(a) protection is the same as that for information protected by common-law privacy under section 552.101 of the Government Code


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<sup>1</sup>The Seventy-Third Legislature repealed article 6252-17a, V.T.C.S. Acts 1993, 73d Leg., ch. 268, § 46, at 988. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

(former section 3(a)(1)): to be protected from required disclosure the information must contain highly intimate or embarrassing facts about a person's *private* affairs such that its release would be highly objectionable to a reasonable person *and* the information must be of no legitimate concern to the public. *Hubert v. Harte-Hanks Texas Newspapers, Inc.*, 652 S.W.2d 546 (Tex. App.--Austin, 1983, writ ref'd n.r.e.). The public has a legitimate interest in knowing the reasons for the dismissal, demotion, promotion, or resignation of all public employees. Open Records Decision No. 444 (1986) (copy enclosed). We have identified only one small portion of the requested documents that implicates the privacy interests of the former employee; we have marked this information that may be withheld pursuant to section 552.102(a). The city must, however, release the remaining information to the requestor.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,

  
Rebecca L. Payne  
Section Chief  
Open Government Section

RLP/RWP/rho

Ref.: ID# 18521

Enclosures: Open Records Decision No. 444  
Marked documents

cc: Mr. Dan Grothaus  
9301 Southwest Freeway, #605  
Houston, Texas 77074  
(w/o enclosures)